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THE BANKER AND THE UNITED STATES WAREHOUSE ACT

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A reprint from the February 1924 issue of the
Acceptance Bulletin of the American Acceptance Council

Third Edition

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UNITED STATES
DEPARTMENT OF AGRICULTURE



WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

The Banker and the United States Warehouse Act

By H. S. YOHE, United States Department of Agriculture

The other day a man who is the head of a bank in the Middle West, and who has very intimate and influential business connections with bankers, railway executives, and leaders in the agricultural field, read to me a copy of a speech dealing with the agricultural situation which he had recently delivered and which he was besieged to repeat at a number of other meetings. When he had read the speech, the banker asked me for my opinion of it. I told him that in the main I agreed with it, but that I could not subscribe to the section on the warehousing of agricultural products.

"But," the banker protested, "our country banks are loaded with paper representing farm products stored in country warehouses and on farms. The metropolitan and rediscounting banks will not accept this paper for rediscount purposes. What I want is a form of warehouse receipt which will be accepted by these rediscounting banks. If the Government will build and operate warehouses for the storage of agricultural products, this can be accomplished."

The method he suggested to accomplish his end showed that he had not heard of the United States warehouse act. An inquiry proved this to be true. The banker was at once interested and asked for full information and details, since the intent of his plan was to get a warehouse receipt which will have back of it qualities that will make it acceptable to bankers everywhere because of disinterested supervision by the Government. After listening to my story, he said: "Well, that is just the thing I want."

Here was a banker with responsible connections, who genuinely and sincerely wished to help the agricultural situation, proposing a measure which meant doing the very thing for which the Government has been criticized severely again and again in the past few years, namely, undertaking by the Government of a business proposition which, according to the

traditions of our country, is a field for private enterprise. And, curiously enough, all the time there is a statute in effect which provides for the very thing he desired, without putting the Government into business. This banker is not the only one who has not heard of the United States warehouse act, for no banker can be expected to keep abreast of all legislation. The experience of this banker, however, suggests the desirability of presenting to bankers a message on this subject.

A Federal Statute Too Little Understood

What is the United States warehouse act? It is a law which was passed by Congress and became effective August 11, 1916. It was passed primarily to help the producer. But by its very nature, due to the interlocking of business relationships, in helping the farmer it helps the banker.

This law provides for the licensing of such warehousemen as the Secretary of Agriculture may in his discretion consider proper warehousemen within the intent of the law for the storage of agricultural products. It also authorizes the Secretary to license properly qualified persons to sample, inspect, grade, and weigh products stored in such warehouses. Originally, the law applied only to the storage of cotton, grain, wool, and tobacco. The first five years after the passage of the act there was very little activity under the statute, but commencing in the fall of 1921, warehousemen began to avail themselves more and more of the law. The year 1922 witnessed a remarkable increase in the number of licenses under this statute. The progress made in the past three and one-half years is strikingly shown in the following table of licensed warehouse capacity for different products at different periods:

Progress under United States warehouse act—Increase of licensed capacity

Date	Cotton	Grain	Wool	Tobacco	Pea-nuts
	<i>Bales</i>	<i>Bushels</i>	<i>Pounds</i>	<i>Pounds</i>	<i>Tons</i>
Apr. 1, 1920	40, 050	136, 000	None.	None.	None.
Apr. 1, 1921	429, 975	2, 108, 400	24, 375, 000	None.	None.
May 1, 1922	1, 209, 695	14, 441, 080	27, 500, 000	68, 395, 000	None.
May 1, 1923	1, 903, 979	15, 699, 547	32, 351, 250	240, 255, 000	None.
Dec. 31, 1923	2, 566, 104	33, 819, 983	25, 645, 000	348, 399, 000	2, 385

The benefits which the patrons of these licensed warehouses received became quite apparent, with the result that the producers of other commodities which enter into storage demanded that the warehouse act be amended so as to apply to products other than those originally specified by the law. On February 23, 1923, in answer to this demand, Congress removed the limitations by making the law applicable to the storage of "agricultural products" without specifying any particular commodities, thereby leaving it with the Secretary of Agriculture to determine what products might be properly stored.

Purposes of United States Warehouse Act

The warehouse act was passed by Congress in the hope that it would accomplish several purposes: First, that it would encourage the farmer to store his products and thus avoid the terrific losses sustained each year through lack of proper storage of harvested crops. Another purpose was to create a uniform system of warehousing throughout the country for agricultural products. But the big consideration was to get a form of warehouse receipt which would possess real loan value. This last purpose, it was thought, could be accomplished by providing a system of licensing warehousemen and by the Government supervising their operations.

The law does not put the Government into business. The Government does not build warehouses under this law. It does not operate them. It merely supervises them. The law, being Federal in nature, has the same application to a warehouseman in the East as to a warehouseman in the South, and in every other part of the country. It aims to break up evil practices in warehousing. The law and the regulations promulgated thereunder by the Secretary clearly specify the duties of the warehouseman and absolutely prohibit such practices as issuing warehouse receipts before the commodities are received into storage or delivering the commodities before the receipts are surrendered—practices which in the administration of the law the department has found are quite common in some sections. It aims also to improve practices in warehousing in the light of the department's experience and sound business and to develop uniformity throughout the country.

A Receipt with Some Real Information

It requires that certain information shall be stated in every receipt issued by licensed warehousemen. Among the outstanding features which must be stated on warehouse receipt issued under this law are:

1. The license number of the warehouseman.
2. The name of the warehouse and location.
3. The name of the licensee and post-office address.
4. Whether a receipt is negotiable or nonnegotiable.
5. That the warehouseman is licensed and bonded under the United States warehouse act.
6. A number which corresponds to the number assigned to the package of the commodity in storage.
7. The name and address of the person from whom the commodity was received for storage.
8. Whether or not the commodity is insured and to what extent.
9. The period for which the commodity is accepted for storage and the terms and conditions under which a new receipt may be issued.
10. The marks, the weight or quantity, the grade, and the condition of the commodity at the time it enters storage.
11. Whether the weight, grade, and condition were determined by weighers, classifiers, and inspectors licensed under the law.
12. The standards according to which the grades were determined.
13. The amount of liens and charges claimed by the warehouseman.
14. The date of issuance of the receipt.
15. The signature of the warehouseman or his authorized agent.
16. If the warehouseman has an interest in the commodity represented by the receipt, the extent of that interest shown on the face of the receipt.
17. A statement on the reverse side showing ownership of and any encumbrances or liens other than the warehouseman's liens which may be on the commodity.

The grade of the commodity must appear on all receipts unless the depositor requests that it be omitted; and, regardless of the wishes of the depositor, when the product is so stored that its identity will be lost upon entering storage, then the grade must be stated by the warehouseman. In all instances the weight or quantity of the product must appear on the warehouse receipt and also the condition of the product.

Only Warehouseman Storing for Public May Be Licensed

Among the requirements of the law and the regulations, one of the most important features is that the warehouse must be open to the public generally for storage of commodities for which the warehouseman has been licensed. No

LICENSE NO.

2-10,000

FARMERS BONDED WAREHOUSE

ATLANTA, GA.

FARMERS WAREHOUSE CO., PROPRIETORS

INCORPORATED UNDER LAWS OF GEORGIA

RECEIPT AND TAG

No. 10191

10191

LICENSED AND BONDED UNDER THE UNITED STATES WAREHOUSE ACT

ORIGINAL — NEGOTIABLE

WAREHOUSE RECEIPT FOR ONE BALE OF COTTON

RECEIVED FOR
STORAGE FROM

THE ONE BALE OF COTTON DESCRIBED HEREIN, STORED IN THE ABOVE-NAMED WAREHOUSE, FOR WHICH THIS RECEIPT IS ISSUED SUBJECT TO THE UNITED STATES WAREHOUSE ACT, THE REGULATIONS FOR COTTON WAREHOUSES THEREUNDER AND THE TERMS OF THIS CONTRACT, SAID COTTON IS FULLY INSURED BY THE UNDERSIGNED WAREHOUSEMAN AGAINST LOSS OR DAMAGE BY FIRE AND LIGHTNING UNLESS EXPRESSLY STATED OTHERWISE ON THE FACE OF THIS RECEIPT. SAID COTTON IS ACCEPTED FOR STORAGE FOR ONE YEAR ONLY FROM THE DATE OF THIS RECEIPT, BUT UPON SURRENDER BY THE HOLDER THIS RECEIPT MAY BE EXTENDED OR A NEW RECEIPT ISSUED, AS PROVIDED IN SAID REGULATIONS. THE UNDERSIGNED WAREHOUSEMAN IS NOT THE OWNER OF THE COTTON COVERED BY THIS RECEIPT, EITHER SOLELY, JOINTLY, OR IN COMMON WITH OTHERS UNLESS OTHERWISE STATED HERE

UPON THE RETURN OF THIS RECEIPT, PROPERLY INDORSED, AND THE PAYMENT OF ALL CHARGES AND LIABILITIES DUE THE UNDERSIGNED WAREHOUSEMAN, AS STATED HEREIN, SAID ONE BALE OF COTTON WILL BE DELIVERED TO THE ABOVE-NAMED DEPOSITOR OR HIS ORDER.

ISSUED AT ATLANTA, GA., ON

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FARMERS WAREHOUSE COMPANY
LICENSED WAREHOUSEMAN

BY

GRADE AND WEIGHT DETERMINED BY A CLASSIFIER AND WEIGHER LICENSED UNDER THE U. S. WAREHOUSE ACT.

THE UNDERSIGNED WAREHOUSEMAN CLAIMS A LIEN ON SAID COTTON FOR CHARGES AND LIABILITIES AS FOLLOWS:

STORAGE
INSURANCE
WEIGHING
CLASSING
TURNING OUT
MISCELLANEOUS

MARKS

WEIGHT

REWEIGHT

*GRADE

*STAPLE

CONDITION

* ACCORDING TO THE OFFICIAL COTTON STANDARDS OF THE UNITED STATES.

warehouseman can be licensed unless he does a public storage business. In other words, warehouses operated for the storage only of the warehouseman's products are not licensable. In the past year much has appeared in the press with reference to the Secretary of Agriculture licensing the farmer to store grain on his farm in his own private granary. Such storage is not licensable under the law, and not a single farmer has been licensed under this law.

Other Prerequisites to Becoming Licensed

Other important provisions of the law are that the warehouseman must file with the Secretary of Agriculture a bond in acceptable amount and terms, prior to becoming licensed. He must have a warehouse which is suitable for the storage of the commodity. Some one competent to inspect, grade, and weigh products must be available at the warehouse. The warehouseman must possess a certain amount of net assets and must have a reputation for clean business dealings. The man in charge of the warehouse must be competent to manage the warehouse and know how to care properly for the products. If the warehouseman or the licensed inspector consider a product in such condition as to not be suitable for storage, it must not under any circumstances be accepted for storage. A positive duty rests on the warehouseman to guard and protect the products at all times against deterioration to the same degree as if the products were his own. To meet this requirement the warehouseman must show that he has the necessary reconditioning and other equipment.

Inspection Service Before Licensing

In order that none but properly qualified warehousemen may be admitted into the system, no warehouseman is licensed until he has passed such examination and inspection as the department may prescribe. This means that upon filing an application by a warehouseman an inspector or examiner is sent to make an examination of the warehouse, to investigate thoroughly the past business relations of the applicant, to determine his financial responsibility, his integrity in business relations, and to finally examine into the qualifications and integrity

of the men who will be in charge of the warehouse and who will do the weighing, inspecting, and grading. These examinations are comprehensive and thorough. As an illustration of their far-reaching consequences, the department has in the past insisted that the superintendents of certain plants would have to be removed before a license would be granted and men placed in charge who would be acceptable to the department. It has even insisted that certain individuals on the board of directors of corporations would have to be removed before the warehousing corporation would be licensed. It has in the past denied a great many applications and has frequently refused to relicense warehousemen who had been licensed but who failed to observe the act and the regulations after licensing. In fact, it has in many instances suspended and canceled licenses for violations of the law and regulations.

Inspections After Licensing

The purpose of these investigations prior to licensing is to maintain what the department regards as a proper standard among licensees. But the real backbone of the warehouse law is not in the law itself but in its administration. A law may be perfectly worded so as to accomplish a desired purpose. Regulations may be issued under the law just as perfect as the law itself. It is common observation, however, that the best law and the best regulations may fall far short of accomplishing their purpose if not soundly administered. Any banker who has handled a fair amount of warehousing paper realizes the importance of proper administration back of a law. In administering the United States warehouse act, the Department of Agriculture maintains examiners or inspectors for the purpose of making examinations at irregular intervals of every licensee. An effort is made to make such examinations at least four times each year. The warehouseman is not advised in advance when the inspector will visit him. Neither does the department necessarily content itself with four examinations annually. If it finds conditions existing which it does not approve of, the warehouseman may be subjected to an examination within a week after previous examina-

tion. There have been some warehouses examined every month when the department suspected certain transactions were taking place, and even more frequently. One thing in which the department is most exacting in these examinations following licensing is that there must be on store in the warehouse a sufficient amount of the kind and grade of the commodity to cover all outstanding receipts, and, in the case of identity-preserved products, a check is made to determine that the identical product placed in storage, as represented by the outstanding receipt, is actually in the warehouse.

In the course of these inspections, consideration is given to see that the products are properly protected, that no increased risks have been placed about the warehouse since it was licensed, that the management has remained unchanged, and that the financial status of the licensee has not decreased or become impaired. In making these inspections the examiners are rotated. It seldom happens that the same inspectors check the same warehouse twice in succession.

Importance of Examinations

The importance of these subsequent examinations is apparent to anyone who has dealt extensively in warehouse collateral. It is common knowledge that in more than one instance a substitution of commodities has been practiced, that the commodities have been switched from the warehouse in which the receipt showed they were stored to some other warehouse, that receipts have been issued when the products were not actually in storage, and that products have been delivered from the warehouse with the receipt still outstanding in the hands of the depositor or perhaps the banker to whom it was passed as security for a loan. Receipts have also been passed to bankers for loans when as a matter of fact the particular commodity had never been placed in a warehouse but was lying on the ground outside the warehouse and exposed to the elements.

What Is Back of a Warehouse Receipt?

Without attempting to draw any invidious distinctions or make any unjust comparisons,

it behooves every banker to know what is actually back of a warehouse receipt when he accepts it for collateral to a loan. To say that a warehouse receipt is issued under a certain law means nothing. To say that it is issued by a certain warehouseman may mean still less, particularly when the warehouseman is located in a part of the country quite distant from the banker to whom the receipt is offered. It is a known fact that under certain State laws warehousemen have been licensed without any inspection being made prior thereto to determine whether there was even a warehouse in existence, much less to say anything of the qualifications of the warehouseman. It is also common knowledge that under certain laws which provide for a licensing system the inspection service following licensing is a mere paper service. It is also known that under at least one State law warehousemen have been authorized to issue warehouse receipts, representing themselves to be licensed, when as a matter of fact regulations had not even been drafted for the conduct of the warehouses, to say nothing of the lack of an inspection service. It is also common knowledge that under certain laws warehousemen are permitted to deliver the products from storage prior to the return of the receipts. It is not at all uncommon to see letterheads and warehouse receipts which represent the warehouseman as licensed and bonded when all he has done is furnished a personal surety bond under some State law.

Effect of Such Practices

Practices such as these are too well known. They are becoming so generally known that expression with a view to defeating them is taking form in the introduction of bills in Congress which would place the Government in the warehousing business. These bills are introduced unquestionably with just as genuine and sincere desire to correct certain conditions as the banker, referred to at the beginning of this article, who proposed such legislation. A general knowledge of the Federal warehouse act, what has been accomplished under it, and the way it has met the needs for a sound piece of warehouse collateral, and an insistence on the part of the bankers of having the best that

is obtainable will go a long way to head off the Government being placed in this field of business.

Warehousemen who have had experience with the law recognize its virtues. The following extract of a letter from a cotton warehouseman who has operated under the law the past two years shows that the law is not burdensome or meddlesome and that it really means business to a warehouseman:

Several of our friends have asked the question whether or not our business has shown any increase since joining the system. The following data will perhaps answer this question better than the writer can express in so many words:

We applied for admittance into your system in August, 1922, and on September 14 we were granted a license covering our entire capacity of 25,000 bales. Immediately it became known that our warehouse was under Government supervision, our business grew so rapidly that we were forced to increase our capacity. The following figures will in a small measure indicate the rapid growth of our business since entering the system:

September 14, 1922: License issued for capacity, 25,000 bales.

October 31, 1922: Increased to 32,000 bales.

September 18, 1923: Increased to 36,000 bales.

November 16, 1923: Increased to 55,942 bales.

From the above figures you will note that we have more than doubled our capacity in the last 18 months. These figures, to say the least of it, prove beyond any shadow of a doubt the advisability of a warehouseman issuing a receipt that is more than acceptable to any bank or bankers in the United States. To be perfectly candid, at first we were very dubious as to the advisability of entering your system, due to the prevailing idea that there was too much "red tape" as to the manner in which you compel all cotton to be stacked in order that the tag on each bale may be visible. From actual experience we find absolutely no trace of red tape; on the contrary, we have been extended every consideration, courtesy, and cooperation. From actual experience, our capacity stacking in accordance with your rules and regulations has had a tendency to increase rather than decrease. If a warehouseman wishes to conduct his warehouse in a businesslike manner and be in position to know the location of any bale in any compartment, we strongly advise him joining the system. On the other hand, if it is his desire just to receive cotton regardless, overlooking any responsibility as to delivery, etc., we most assuredly admit the system is no place for him. The method of handling warehouse receipts is simple, but at the same time absolutely accurate, providing the records are kept in accordance with your rules and regulations, which by no means are unreasonable. The mere fact that it is compulsory to state the actual weight, grade, and staple of each individual bale is a feature that commands attention and respect from all bankers and insurance people at large. Each receipt

calls for a specific bale or bales, as the case may be, and only on surrender of this particular receipt can that actual cotton be tendered for delivery.

We could write at length showing the advantages of the system. We will conclude by stating that an honest warehouseman has nothing to fear when joining the United States system of warehouses; however, the indifferent, careless warehouseman had better remain independent, otherwise he might be forced to take an extended holiday without pay.

Only warehousemen who do not wish to be supervised, but who want a free hand to operate as they please, and to continue loose and unbusinesslike practices, object. *The Federal law is permissive, not mandatory. It rests, therefore, entirely with the banker to say whether he will have a warehouse receipt which tells a complete story on its face and has back of it a disinterested supervision, or whether he will accept a mere memorandum on a piece of paper issued by a warehouseman who may indulge in the loosest kind of practices and who may or may not be responsible.*

When it is recalled that such an organization as the Mississippi Staple Cotton Cooperative Association has for the past three years financed itself exclusively on the basis of the Federal warehouse receipt, and that 11 of the other 14 cotton cooperative associations are using the Federal warehouse receipt to do their financing; that the tobacco growers associations in the Carolinas, Virginia, and Kentucky are using the same form of warehouse receipt; that millions upon millions of bushels of grain are being stored under these receipts; and that the bankers from one end of the country to the other, and the Government agencies which have been assisting in agricultural financing in the last few years, have found these receipts without exception acceptable, it does not seem to be asking too much of bankers who are sincerely desirous of helping in the financing and orderly marketing of agricultural products that they should thoroughly acquaint themselves with the Federal warehouse act and its administration and the form of warehouse receipt provided for by this law.

There is such a thing as a warehouse receipt having back of it real value. There is also such a thing as a warehouse receipt which is a mere piece of paper. As bankers, which do you prefer? Be it said to the credit of ware-

housemen, they are willing generally to become licensed if the banker will express a preference for a Federally licensed receipt. But they ask, "Why should we submit our business to Government supervision when the bankers will accept our competitors' non-licensed receipt on an equal footing with our licensed receipt?" A little discrimination, often only a word of preference for the Federal warehouse receipt, will accomplish the desired end.

In all seriousness we ask you as a banker, are you or is the warehouseman the more to blame for the poor form of warehouse collateral that is so frequently offered as security for an agricultural loan?



